

REMARKS

The Office Action of May 22, 2006 has been carefully considered.

It is noted that claims 14 and 24 are rejected under 35 U.S.C. 112, first paragraph.

Claim 6 is rejected under 35 U.S.C., second paragraph.

Claims 14 and 24 are objected to for containing various informalities.

Claims 38-41, 43 and 45-47 are rejected under 35 U.S.C. 102(b) over the patent to Markowitz.

Claims 1-4, 6-11, 14-22, 24, 25 and 27-31 are rejected under 35 U.S.C. 103(a) over Markowitz in view of the patent to Tsengas.

Claims 5 and 26 are rejected under 35 U.S.C. 103(a) over Markowitz and Tsengas, and further in view of the patent to Morikawa.

Claim 12 is rejected under 35 U.S.C. 103(a) over Markowitz and Tsengas, and further in view of the patent to Bartleson.

Claims 42 and 44 are rejected under 35 U.S.C. 103(a) over Markowitz in view of Morikawa.

In view of the Examiner's objections to and rejections of the claims, applicant has canceled claims 6, 17, and 27, amended claims 1, 7, 15, 18, 28, 38 and 43, and amended the

specification.

It is respectfully submitted that the subject matter of claims 14 and 24 is enabled by the specification. Applicant has amended the specification to recite that the attractant can be located on the outside of the housing. No new matter is added by this change since the originally filed claims recited this feature and form part of the original disclosure. With this change it is respectfully submitted that the rejection of claims 14 and 24 under 35 U.S.C 112, first paragraph, is overcome and should be withdrawn.

Claim 6 has been amended to remove the antecedent basis problems in the claim. With these changes it is respectfully submitted that the rejection of claim 6 under 35 U.S.C. 112, second paragraph, is overcome and should be withdrawn.

Regarding the objection to claims 14 and 24, applicant has amended claim 24 so that it now depends from claim 16. Therefore, the two claims are no longer duplicates of each other. In view of these considerations it is respectfully submitted that the objections to claims 14 and 24 as containing informalities is overcome and should be withdrawn.

It is respectfully submitted that the claims presently on file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

Turning now to the references, and in particularly to the patent to Markowitz, it can be seen that this patent discloses an interactive game between a pet and an owner. The toy animal of Markowitz has a battery powered motor that drives wheels to move the toy animal. The toy animal is controlled by remote control via an antenna 6. Markowitz does not disclose a drive unit that is configured to generate drive energy by movement of the drive unit in a direction opposite the first direction of the travel of the housing or chassis in which the drive unit is arranged. The motor of Markowitz receives drive energy from batteries. There is no disclosure by Markowitz that moving the toy in the direction opposite a first direction of travel (a forward

movement direction) would produce any drive energy for moving the toy in the first direction, as in the presently claimed invention.

In view of these considerations, it is respectfully submitted that the rejection of claims 38-41, 43 and 45-47 under 35 U.S.C. 102(b) over the above discussed reference is overcome and should be withdrawn.

The patent to Tsengas discloses an interactive pet toy. The Examiner combined this reference with Markowitz in determining that claims 1-4, 6-11, 14-22, 24, 25 and 27-31 would be unpatentable over such a combination. The toy animal of Tsengas is driven to move in and out of a housing. To accomplish this, the mouse is driven by air pressure, mechanical means as shown in FIGS. 8A and 8B, or an electric motor as shown in FIGS. 6 and 9. None of these drive mechanisms are configured to generate drive energy for a movement of the toy animal in one direction by moving the toy animal in an opposite second direction, as in the presently claimed invention. Thus, since neither of the references teach a pet toy having a drive unit as recited in the presently claimed invention, a combination of the references can not teach such a construction.

In view of these considerations it is respectfully submitted that the rejection of claims 1-4, 6-11, 14-22, 24, 25 and 27-31 under 35 U.S.C. 103(a) over a combination of the above discussed references is overcome and should be withdrawn.

The patent to Morikawa discloses a pull back wind-up type spring drive unit. The Examiner combined this reference with Markowitz and Tsengas in determining that claims 5 and 26 would be unpatentable over such the combination. Applicant respectfully submits that there is no motivation provided by any of the references for making the combination suggested by the Examiner. Markowitz specifically discloses a remote controlled pet toy. Markowitz specifically addresses using only radio frequency control. There is no teaching whatsoever, nor is there any indication of any desirability for the pet toy of Markowitz to not be radio

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controlled. In fact, the claims of Markowitz are drawn to a method which utilizes remote control and thus taking this remote control out of Markowitz would completely alter the inventive concept of Markowitz and would therefore not be obvious to do. Furthermore, neither Tsengas nor Morikawa provide any suggestion for modifying the game of Markowitz as suggested by the Examiner. As the Examiner is aware, there must be some motivation provided by the references for making the modifications of the primary reference as suggested by the Examiner. Applicant once again submits that there is no such motivation provided by any of the references.

In view of these considerations it is respectfully submitted that the rejection of claims 5 and 26 under 35 U.S.C. 103(a) over a combination of the above discussed references is overcome and should be withdrawn.

The Examiner also rejected claims 42 and 44 over a combination of Markowitz and Morikawa. As previously argued, applicant submits that there is no motivation in either reference for making the combination argued by the Examiner. In fact, Markowitz teaches away from providing a drive which requires manipulation of the pet toy itself.

In view of these considerations it is respectfully submitted that the rejection of claims 42 and 44 under 35 U.S.C. 103(a) over the above discussed references overcome it and should be withdrawn.

The patent to Bartleson discloses a no mess refillable cat nip toy. The Examiner combined this reference with Markowitz and Tsengas in determining that claim 12 would be unpatentable over such a combination. Bartleson adds nothing to the teachings of Markowitz and Tsengas so as to suggest the combination recited in independent claim 1 presently on file. Thus it is respectfully submitted that the rejection of claim 12 under 35 U.S.C. 103(a) over a combination over the above discussed references is overcome and should be withdrawn.


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Reconsideration and allowance of the present application are respectfully requested.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on August 17, 2006.

By: 
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